

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JAMAL DELANO MCKENZIE,

Plaintiff,

v.

CARISSA MORENO, et al.

Defendants.

1:23-cv-01071-EPG (PC)

ORDER TO ASSIGN A DISTRICT JUDGE

FINDINGS AND RECOMMENDATIONS,
RECOMMENDING THAT THIS ACTION BE
DISMISSED, WITHOUT PREJUDICE

OBJECTIONS, IF ANY, DUE WITHIN
FOURTEEN (14) DAYS

Plaintiff Jamal Delano McKenzie is a state prisoner proceeding *pro se* in this civil rights lawsuit filed pursuant to 42 U.S.C. § 1983. After Plaintiff failed to submit an application to proceed *in forma pauperis* or pay the filing fee, the Court issued an order on July 19, 2023, giving Plaintiff forty-five days to do either and warning of dismissal if Plaintiff failed to comply. (ECF No. 4). The forty-five-day period has expired, and Plaintiff has failed to pay the filing fee, submit an IFP application, or otherwise respond to the Court's order.

Accordingly, IT IS ORDERED that the Clerk of Court shall assign a district judge to this case.

And IT IS RECOMMENDED that:

1. This action be dismissed, without prejudice, for Plaintiff's failure to pay the filing fee pursuant to 28 U.S.C. § 1914 or to file an application to proceed *in forma pauperis* pursuant to

28 U.S.C. § 1915; and

2. The Clerk of Court be directed to close this case.

3. Alternatively, if Plaintiff files a proper *in forma pauperis* application or pays the filing fee within fourteen (14) days, this Court will vacate these findings and recommendations.

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen (14) days after being served with these findings and recommendations, Plaintiff may file written objections with the Court. Such a document should be captioned “Objections to Magistrate Judge’s Findings and Recommendations.”

Plaintiff is advised that failure to file objections within the specified time may result in the waiver of rights on appeal. *Wilkerson v. Wheeler*, 772 F.3d 834, 838-39 (9th Cir. 2014) (citing *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)).

IT IS SO ORDERED.

Dated: September 14, 2023

/s/ Eric P. Gray
UNITED STATES MAGISTRATE JUDGE